HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

F.A.O.No.747 of 1992
Date of decision : 13.12.2006.

Lalita Devi and others **.....Appellants**

versus

Bhola alias Birbal and others **.....Respondents**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : None for the parties.

* * *

JUDGMENT

HEMANT GUPTA, J. (Oral)

The present appeal is against the award dated 29.8.1991, passed by the learned Motor Accident Claims Tribunal, Faridabad, whereby a sum of Rs.1,50,000/- was awarded as compensation to the appellants.

In a motor vehicular accident on 30.6.1989, Rajesh Kumar, who was working as Supervisor at a Stone Crusher, has died . His wife, two minor sons, two minor daughters and mother, as his legal heirs and dependents, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, for claiming compensation of Rs.5.00 lacs. It is pleaded that Rs.2500/- was the monthly income of the deceased besides other perks like free residential accommodation.

The learned Tribunal found that the monthly income of the deceased was Rs.1200/- per month, on the basis of statement of PW-3-Sita Ram, the employer. However, the facility of rent free accommodation or conveyance in connection with the employment was not taken into

consideration and 65% of the salary was considered as dependancy and thus, worked out total amount of compensation payable as Rs.1,49,760/-, rounded of to Rs.1,50,000/- after applying 16 as multiplier.

After going through the award of the learned Motor Accident Claims Tribunal, I am of the opinion that exclusion of money equivalent in respect of rent free accommodation is not justified. The provision of rent free accommodation is a facility for keeping the family and, therefore, the same is required to be taken into consideration. The same are assessed as Rs.400/- per month, keeping in view the salary of the deceased which was Rs.1200/- per month. Still further, there was six persons who were dependent on the deceased. Therefore, finding that the deceased contributed 65% of the salary is not justified. In view of a large number of dependents, I deem it appropriate to determine that the deceased must be spending 3/4th of of his income for the maintenance of his dependents.

In view of the above, Rs.1200/- is the amount of monthly dependency, therefore, after applying the multiplier of 16 (1200x12x16), Rs.2,30,400/- would be the compensation payable to the appellants. The enhanced amount of compensation be payable to the wife and children in equal shares.

Consequently, the present appeal is allowed and an amount of Rs.2,30,400/- is determined as compensation payable to the appellants. The appellants shall also be entitled to the interest @ 8% per annum from the date of filing the claim petition till its realisation.

(HEMANT GUPTA)
JUDGE

December 13, 2006
**mohinder*